

Senate Daily Reader

Wednesday, January 28, 2004

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State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0399

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 56** - 01/26/2004

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to provide that certain minors who have been adjudicated
2 for driving under the influence be defined as children in need of supervision.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-23-21 be amended to read as follows:

5 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
6 drive, operate, or be in actual physical control of any motor vehicle:

7 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
8 person's blood as shown by chemical analysis of the person's breath, blood, or other
9 bodily substance; or

10 (2) After having consumed marijuana or any controlled drug or substance for as long as
11 physical evidence of the consumption remains present in the person's body.

12 If a person is found guilty of or adjudicated for a violation of this section, the Unified
13 Judicial System shall notify the Department of Public Safety. Upon conviction or adjudication,
14 the court shall suspend that person's driver's license or operating privilege for a period of six
15 months for a first offense or one year for any second or subsequent offense. However, the court



1 may, in its discretion, issue an order permitting the person to operate a motor vehicle during the
2 hours and days of the week set forth in the order for purposes of the person's employment,
3 attendance at school, or attendance at court-ordered counseling programs.

4 Section 2. That § 26-8B-2 be amended to read as follows:

5 26-8B-2. In this chapter and chapter 26-7A, the term, child in need of supervision, means:

6 (1) Any child of compulsory school age who is habitually absent from school without
7 legal excuse;

8 (2) Any child who has run away from home or is otherwise beyond the control of the
9 child's parent, guardian, or custodian;

10 (3) Any child whose behavior or condition endangers the child's own welfare or the
11 welfare of others;

12 (4) Any child who has violated any federal, state, or local law or regulation for which
13 there is not a penalty of a criminal nature for an adult, except violations of
14 subdivision 34-46-2(2), or petty offenses; or

15 (5) Any child who has violated § 35-9-2 or 32-23-21.

16 Section 3. That § 26-8C-2 be amended to read as follows:

17 26-8C-2. In this chapter and chapter 26-7A, the term, delinquent child, means any child ten
18 years of age or older who, regardless of where the violation occurred, has violated any federal,
19 state, or local law or regulation for which there is a penalty of a criminal nature for an adult,
20 except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as
21 misdemeanors, or petty offenses or any violation of § 35-9-2 or 32-23-21.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

619J0575

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 80** - 01/26/2004

Introduced by: Senators Knudson and de Hueck and Representatives Murschel, Cutler,
Deadrick (Thomas), and Williamson

1 FOR AN ACT ENTITLED, An Act to establish a time limit for the filing of a civil action in lieu
2 of a hearing in certain human rights complaints and to permit the disclosure of confidential
3 investigatory materials after a determination in a discrimination proceeding.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 20-13-32.2 be amended to read as follows:

6 20-13-32.2. Prior to the issuance of a ~~probable cause~~ determination under § ~~20-13-32~~ § 20-
7 13-1.1, 20-13-28.1, or 20-13-32, information and materials regarding a charge of discrimination
8 obtained by an investigating official are confidential. Notwithstanding §§ 1-27-29 to 1-27-32,
9 inclusive, after the issuance of a ~~probable cause~~ determination and upon receipt of a written
10 request and payment of costs for copying, all investigatory materials may be disclosed to the
11 parties or their counsel of record.

12 Section 2. That § 20-13-35.1 be amended to read as follows:

13 20-13-35.1. No later than twenty days after the issuance of notice requiring the respondent
14 to answer the charge, the charging party or the respondent may elect to have the claims asserted
15 in the charge decided in a civil action, in lieu of a hearing, under the provisions of this section.



1 Any civil action shall be filed within one year of such election. Upon receipt of notice of
2 election, the Division of Human Rights or the Commission of Human Rights has no further
3 jurisdiction over the parties concerning the charge filed. The Division of Human Rights or the
4 Commission of Human Rights shall notify the parties in writing of the election and of the one
5 year limitation period in which to file a civil action. The limitation period in which to file a civil
6 action begins on the date of the notice of election. In a civil action, if the court or jury finds that
7 an unfair or discriminatory practice has occurred, it may award the charging party compensatory
8 damages. The court may grant as relief any injunctive order, including affirmative action, to
9 effectuate the purpose of this chapter. Punitive damages may be awarded under § 21-3-2 for a
10 violation of §§ 20-13-20 to 20-13-21.2, inclusive, 20-13-23.4, 20-13-23.7, or 20-13-26.
11 Attorneys' fees and costs may be awarded to the prevailing party for housing matters.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

409J0138

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 85** - 01/26/2004

Introduced by: Senators Bogue, Albers, Kleven, and McCracken and Representatives Rhoden, LaRue, and Smidt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the approval of
2 airports.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 50-5-1 be amended to read as follows:

5 50-5-1. ~~All owners and operators of all airports, landing fields, air schools, and flying clubs~~
6 ~~and the owners and operators of all air beacons and other air navigation facilities shall make~~
7 ~~application~~ Any owner or operator of a public airport shall apply to the South Dakota
8 Aeronautics Commission for its approval for such ~~airports, landing fields, air schools, flying~~
9 ~~clubs, air beacons, and other air navigation facilities and the~~ public airport prior to its use. Any
10 owner or operator of a private airport located within two miles of the nearest boundary of any
11 approved public airport shall apply to the South Dakota Aeronautics Commission for approval
12 for such private airport prior to its use. The commission shall ~~immediately~~ consider and pass
13 ~~upon such applications~~ either approve or reject an application within sixty days of receipt of the
14 completed application.

15 Section 2. That chapter 50-5 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The approval requirements of § 50-5-1 do not apply to temporary airports, landing fields,
3 or landing strips used only by aircraft while engaged in providing emergency medical services
4 or other emergency services.

5 Section 3. That § 50-1-1 be amended by adding thereto two NEW SUBDIVISIONS to read
6 as follows:

7 "Private airport," any airport, landing field, or landing strip that is open to and available for
8 use only by the owner and the owner's invitees;

9 "Public airport," any airport, landing field, or landing strip, whether publicly or privately
10 owned, that is open to and available for use by the flying public.

11 Section 4. That § 50-5-2 be repealed.

12 ~~50-5-2. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other~~
13 ~~air navigation facilities shall first be approved by the Aeronautics Commission before they, or~~
14 ~~any of them, shall be so used or operated. A violation of this section is a Class 2 misdemeanor.~~

15 Section 5. That § 50-5-3 be amended to read as follows:

16 50-5-3. The Aeronautics Commission ~~is hereby authorized to~~ may issue a certificate of its
17 approval ~~in each case under~~ pursuant to § 50-5-1 ~~or 50-5-2~~ and to ~~make~~ may set a reasonable
18 charge therefor by rules ~~or regulations issued~~ promulgated pursuant to chapter 1-26.

19 Section 6. That § 50-5-4 be amended to read as follows:

20 50-5-4. It is a Class 2 misdemeanor to use or operate ~~an~~ a public airport, ~~landing field, air~~
21 ~~school, flying club, air beacon, or other air navigation facility~~ or a private airport located within
22 two miles of the nearest boundary of an approved public airport without the prior approval of
23 the Aeronautics Commission.

24 Section 7. That § 50-5-6 be amended to read as follows:

1 50-5-6. ~~In any case where~~ If the Aeronautics Commission rejects an application for
2 permission to operate or establish an airport, ~~landing field, air school, flying club, air beacon,~~
3 ~~or other air navigation facility, or in any case where~~ or if the commission ~~shall issue~~ issues any
4 order requiring certain things to be done, ~~it~~ the commission shall set forth its reasons therefor
5 and shall state the requirements to be met before such approval will be given or such order
6 modified or changed.

7 Section 8. That § 50-5-9 be amended to read as follows:

8 50-5-9. The South Dakota Aeronautics Commission ~~shall at all times maintain on file in its~~
9 ~~office a list of airport landing fields and landing strips which have been approved for public use~~
10 ~~by aircraft setting forth the legal descriptions of the real property occupied~~ and any state, county,
11 or municipal officer charged with the duty of enforcing this chapter, may inspect and examine,
12 at reasonable hours, any premises, and any building and any other structure thereon, where any
13 airport is operated.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

795J0643

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 95** - 01/26/2004

Introduced by: Senators Schoenbeck, Abdallah, and Albers and Representatives Hennies and Buckingham

1 FOR AN ACT ENTITLED, An Act to permit the Law Enforcement Officers Standards
2 Commission to refuse certain applications based on juvenile adjudications and dispositions
3 and to provide for access to certain juvenile adjudications and dispositions by the
4 commission.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 23-3-42 be amended to read as follows:

7 23-3-42. In addition to the requirements of § 23-3-41, the commission, by rules ~~and~~
8 ~~regulations~~ promulgated pursuant to chapter 1-26, shall fix other qualifications for the
9 employment and training of appointed law enforcement officers, including minimum age,
10 education, physical and mental standards, citizenship, good moral character, experience, and
11 such other matters as relate to the competence and reliability of persons to assume and discharge
12 the various responsibilities of law enforcement officers, ~~and the~~. The commission shall also
13 prescribe the means for presenting evidence of fulfillment of these requirements.
14 Notwithstanding §§ 23A-27-14 and 23A-27-17, a any person seeking certification as a law
15 enforcement officer who has received an order pursuant to § 23A-27-13 may have his or her



1 application refused or certification revoked. Notwithstanding §§ 26-7A-105 and 26-7A-106,
2 any person seeking certification as a law enforcement officer who has received an adjudication
3 or disposition pursuant to chapter 26-7A or 26-8C may have his or her application refused.

4 Section 2. The Unified Judicial System shall provide such access about any adjudication or
5 disposition pursuant to chapter 26-7A or 26-8C to the Law Enforcement Officers Standards
6 Commission as may be necessary to effectuate the purposes of section 1 of this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

565J0622

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 115** - 01/26/2004

Introduced by: Senators Kelly, Abdallah, Earley, Ham-Burr, Kooistra, and Olson (Ed) and
Representatives Williamson, Cutler, Glenski, Hennies, McCaulley, Murschel,
and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to prohibit the disruption of or interference with traffic
2 signal preemption systems and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No person may disrupt or interfere with the traffic signal preemption system
5 installed by any municipality, county, or other unit of local government for use by emergency
6 vehicles to improve traffic movement by temporarily controlling signalized intersections.

7 Any violation of this section is a Class 2 misdemeanor.

8 Section 2. The provisions of section 1 of this Act do not apply to any authorized emergency
9 response employee who is using the system pursuant to such employment at a time when an
10 emergency exists and there is a threat of immediate danger to life or property that reasonably
11 requires the use of the system in order to protect the public peace or safety. Moreover, the
12 provisions of section 1 of this Act do not apply to any person who is performing any authorized
13 inspection, maintenance, or repair work on the system.

